

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

VERNA IP HOLDINGS, LLC,

Plaintiff,

v.

ALERT MEDIA, INC.,

Defendant.

C.A. No. 6:21-cv-00422-ADA

JURY TRIAL DEMANDED


PUBLIC VERSION

VERNA IP HOLDINGS, LLC,

Plaintiff,

v.

ALERT MEDIA, INC.,

Defendant.

C.A. No. 6:22-cv-00387-ADA

JURY TRIAL DEMANDED


PUBLIC VERSION

DECLARATION OF DAVID B. CONRAD

I, David B. Conrad, declare as follows:

1. I am over the age of 21 and fully competent to make this declaration. I have personal knowledge of the facts stated herein and they are all true and correct.

2. I am a Principal Attorney with the law firm of Fish & Richardson P.C. My firm and I acted as counsel for Defendant Alert Media, Inc. (“Alert Media”) since the inception of the earliest of these lawsuits. It is in that capacity that I have obtained knowledge of the facts described herein.

3. I graduated with a J.D. from University of Texas at Austin School of Law in 2007. Since then, I have worked for Fish & Richardson P.C.’s Dallas office, practicing patent litigation as well as commercial litigation and other intellectual property litigation. My practice at Fish & Richardson has involved representing both patent holders and companies accused of infringement. I have been recognized by Docket Navigator as one of the top lawyers in the

nation by the number of cases in which I have represented companies accused of infringement. I have appeared in over 400 federal actions nationwide, including over 350 patent litigation matters, and 49 actions in this District. A true and correct copy of the 2021 Docket Navigator report is attached hereto as Exhibit 10.

4. Through my practice and experience, I am familiar with the normal and customary fees charged for legal services in the Western District of Texas considering the time expended, the amount in controversy, the complexity of the case, the experience, reputation, ability, and billing rates of the attorneys and staff involved, the expertise involved and the other criteria upon which fees are based. I am also aware of the various court opinions issued by the United States District Court for the Western District of Texas, the United States Court of Appeals for the Federal Circuit, and other state courts governing the award of fees in cases such as this. I am often responsible for preparing and managing budgets for the patent litigation matters in which I appear. I am knowledgeable of the fees and work required to litigate a case such as this.

5. I have previously testified as an attorneys' fees expert in several matters where fees were awarded in full, for the relevant period, according to my testimony about the reasonableness and the necessity for the fees, including at least: *Inventor Holdings, LLC v. Bed Bath & Beyond, Inc.*, 876 F. 3d 1372, (Fed. Cir. 2017) (awarding \$931,903.45); *Great American Lloyds Ins. Co. v. Vines-Herrin Custom Homes, LLC*, 596 SW 3d 370 (Tex. App.—Dallas, pet. denied) (awarding \$ \$604,743.02).

6. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

7. Attached as Exhibit 13 are biographies of the attorneys who billed the time on these cases for which Defendant requests fees.

8. The bulk of the case work was handled by Neil McNabnay and myself, who served as lead counsel, as well as Colin Marshall¹ and Philip Brown, both associates who managed the day-to-day case work. Additional support for preparing invalidity contentions was provided by associate Nan Lan and of counsel Sarika Patel.

9. In my opinion, the fees described herein were reasonably and necessarily incurred in defending this case. I believe that the total amount of fees is extremely reasonable for a case of this nature considering all of the legal issues and briefing that was required. The fees are also appropriate for the skill level of the attorneys involved, the complexity of the case, and the normal and customary fees charged for patent litigation in the Western District of Texas.

10. In my opinion, the fees incurred while defending this case are reasonable in light of the typical national rates and fees incurred in defending patent litigation. Attached as Exhibit 14 is a true and correct excerpt of the 2021 economic survey of the American Intellectual Property Law Association (AIPLA). It shows that the mean litigation costs for defending patent litigation in 2021 for one just one patent were \$1.91 million (for \$1 to \$10 million in dispute).

FURTHER DECLARANT SAYETH NOT.

I declare, under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

¹ Colin Marshall left Fish & Richardson in January 2022, and Philip Brown took over to manage the day-to-day case work.

Executed March 27, 2023.

/s/ David B. Conrad

David B. Conrad